

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE DARONTE DAVIS,

Plaintiff,

v.

MESKATH UDDIN,

Defendants.

No. 2:22-cv-0864 DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendant violated his Eighth Amendment rights. Presently before the court is plaintiff's motion for the appointment of counsel. (ECF No. 20.)

In support of his motion, plaintiff argues that he has not legal experience and "will need help with legal and complex procedures, legal or mixed legal and factual questions." (ECF No. 20 at 2.) He also argues he is a participant in the California Department of Corrections and Rehabilitation's mental health program, he will need expert assistance in proving his claims, and he does not have the funds to hire an investigator. (Id.)


The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

1 The test for exceptional circumstances requires the court to evaluate the plaintiff's
2 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in
3 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,
4 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
5 common to most prisoners, such as lack of legal education and limited law library access, do not
6 establish exceptional circumstances that would warrant a request for voluntary assistance of
7 counsel.

8 In the present case, the court does not find the required exceptional circumstances.
9 Plaintiff's filings in this action indicate that he is able to articulate his claims at this time.
10 Therefore, the undersigned will deny the motion to appoint counsel without prejudice to its
11 renewal at a later stage of the proceedings.

12 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
13 counsel (ECF No. 20) is denied.

14 Dated: February 17, 2023

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17 DEBORAH BARNES
18 UNITED STATES MAGISTRATE JUDGE
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